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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,696	12/31/2003	Lorrie A. Creveling	2348.0070000	2179
53636 7590 12/28/2007 STERNE, KESSLER, GOLDSTEIN & FOX, P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005-3934			EXAMINER BASIT, ABDUL	
			ART UNIT 3694	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/749,696

Applicant(s)

CREVELING ET AL.

Examiner

Abdul Basit

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **PR Newswire** article, "Coner Banca selects Trintech's Payware Resolve for Chargeback Automation," in view of **Schmidt** (European Patent Application, 0 599 515 A1)

Regarding claim 1:

PR Newswire teaches a method for processing credit transactions. (*see page 2*)

PR Newswire teaches determining disputed credit transactions and a number of credit transactions involving a merchant in the period of time; (*see page 2*)

PR Newswire teaches assessing a chargeback fee against the merchant only for each disputed transaction involving the merchant that exceeds the threshold ratio (*see page 2 regarding rules*)

Schmidt, not PR Newswire, teaches a method of monitoring errors. (*see summary of invention – maximum allowable rate*)

Schmidt teaches determining an error rate. An error rate is a ratio of the number of errors in comparison to a total number of actions that have occurred. (*see summary of invention – maximum allowable rate*)

Schmidt not PR Newswire, teaches an action that should occur in the event a threshold level is met. (*see summary of invention – maximum allowable rate*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Schmidt. Motivation to modify exists because a system that can monitor errors helps to reduce costs.

Regarding claim 6:

Schmidt, not PR Newswire, teaches a threshold level based on volume.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Schmidt. Motivation to modify exists because volume is an efficient method of determining error costs.

Regarding claim 7:

Schmidt, not PR Newswire, teaches that for the method of claim 1, further comprising: establishing a threshold number of time periods; (*see summary of invention*)

calculating a number of time periods in which the ratio of the number of disputed credit transactions to the number of credit transactions for the merchant is at least equal to the threshold value; and said assessing further comprising:

assessing a penalty, such as a chargeback fee, only for each disputed transaction that exceeds the threshold ratio, and when the ratio is at least equal to the threshold ratio for the period of time and the number of time periods for the merchant is at least equal to the threshold number of time periods. (*see summary of invention*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Schmidt. Motivation to modify exists because using time

periods is an efficient method of determining error rates.

Regarding claim 8:

Schmidt, not PR Newswire, teaches that the method of claim 7, wherein the threshold number of time periods is greater than one. (*see summary of invention*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Schmidt. Motivation to modify exists because a threshold level helps to boundaries as to what level of error is acceptable.

Regarding claim 9:

PR Newswire further teaches generating a notice for transmission to the merchant when the number of time periods for the merchant is greater than zero and less than the threshold number of time periods, the notice including: the ratio of the number of disputed credit transactions to the number of credit transactions for the merchant, the threshold ratio, the number of time periods for the merchant and the threshold number of time periods. (*see page 2*)

Regarding claim 10:

PR Newswire further teaches that the method of claim 9, further comprising transmitting the notice to the merchant. (*see page 2*)

Regarding claim 11:

PR Newswire further teaches that the method of claim 8, further comprising: generating a notice for transmission to the merchant when the number of time periods for the merchant is greater than zero and less than the threshold number of time periods, the notice including at least proposed business solution for reducing the

number of disputed credit transactions involving the merchant. (*see page 2*)

Regarding claim 12:

PR Newswire further teaches that the method of claim 7, wherein the threshold number of time periods is based on an industry category including the merchant. (*see page 2-discussion of rules*)

Regarding claim 13:

Schmidt teaches that for the method of claim 7, the threshold number of time periods comprising a threshold number of consecutive time periods. (*see summary of invention*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Schmidt. Motivation to modify exists because consecutive time periods helps to better determine error rates.

3. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over PR Newswire article, "Coner Banca selects Trintech's Payware Resolve for Chargeback Automation," in view of Schmidt (European Patent Application, 0 599 515 A1) in further view of Official Notice.

Regarding claim 2:

Official Notice is given that a period of time can comprise of thirty days.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Official Notice. Motivation to modify exists because thirty days is a simple way of providing a period of time.

Regarding claim 3:

Official Notice is given that the threshold ratio can be three percent.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Official Notice. Motivation to modify exists because a percentage level is an easy way of showing a ratio.

4. Claims 4 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **PR Newswire** article, "Coner Banca selects Trintech's Payware Resolve for Chargeback Automation," in view of **Schmidt** (European Patent Application, 0 599 515 A1) in further view of **Card News** article, "New Approach to Combat Web Chargebacks."

Regarding claim 4:

Card News, not PR Newswire, teaches that the method of claim 1, further comprising: establishing the threshold ratio based on an industry category including the merchant. (*see abstract – difference between brick and mortar companies and online companies*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Card News. Motivation to modify exists because industry categories provide an easy method of segmenting error rates according to industry background.

Regarding claim 15:

Schmidt, not PR Newswire, teaches that for the method of claim 14, further comprising: calculating a dispute-to-record of charge (ROC) ratio for a merchant in the first of the industry categories; (*see page 1*) and

assessing a chargeback fee when the dispute-to-ROC ratio is at least equal to the first threshold ratio. (*see page 1*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Schmidt. Motivation to modify exists because threshold levels allow for a better determination of when a fee should be charged for an error.

Regarding claim 16:

Schmidt, not PR Newswire, teaches that an action should occur if a certain error level occurs. (*see summary of invention*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Schmidt. Motivation to modify exists because threshold levels allow for a better determination of when a fee should be charged for an error.

Regarding claim 17:

Schmidt, not PR Newswire, teaches determining a first and second threshold number of time periods. (*see summary of invention*)

Card News teaches a different criteria for a different industry category. (*see page 1*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Schmidt and Card News. Motivation to modify exists because threshold levels allow for a better determination of when a fee should be charged for an error. Also motivation to modify exists because it is efficient to use different criteria for different industry categories.

Regarding claim 18:

Schmidt teaches a method of claim 17, further comprising:

calculating a error ratio for a plurality of previous time periods; (*see summary of invention*)

calculating a number of time periods in which an error rate is greater than the first threshold ratio; (*see summary of invention*)

PR Newswire teaches assessing a chargeback fee if the merchant's current dispute-to-ROC ratio is at least equal to the first threshold ratio and the number of time periods for the merchant is at least equal to the first threshold number of time periods. (*see page 2*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Schmidt. Motivation to modify exists because threshold levels using time periods allows for a better determination of error rates.

Regarding claim 19:

PR Newswire teaches a method of claim 18, further comprising:

generating a notice for transmission to the merchant. (*see page 2*)

Regarding claim 20:

PR Newswire teaches an apparatus for processing credit transactions (*see page 2*),

PR Newswire calculates an average dispute-to-record of charge (ROC) ratio. (*see page 2*)

PR Newswire teaches calculate a dispute-to-ROC ratio for a merchant in the first of the industry categories. (*see page 2*)

Card News, not PR Newswire, teaches the use of a plurality of industry categories; (*see page 1*)

Schmidt, not PR Newswire, teaches assessing a chargeback fee to the merchant when a certain error rate occurs. (*see summary of invention*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Card News and Schmidt. Motivation to modify exists because use of industry categories helps to determine a better threshold level, and using a threshold level helps to control error rates.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **PR Newswire** article, "Coner Banca selects Trintech's Payware Resolve for Chargeback Automation," in view of **Schmidt** (European Patent Application, 0 599 515 A1) in further view of **Card News** article, "New Approach to Combat Web Chargebacks," and in further view of Official Notice.

Regarding claim 5:

Official notice is given that the industry category comprising a standard industrial classification code.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Official Notice. Motivation to modify exists because SIC codes allow for an efficient method of determining industry categories.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over **PR Newswire** article, "Coner Banca selects Trintech's Payware Resolve for Chargeback Automation," in view of view of **Card News** article, "New Approach to Combat Web Chargebacks."

Regarding claim 14:

PR Newswire teaches a method for processing credit transactions (*see page 2*)

PR Newswire teaches calculating a ratio of disputed credit transactions to total credit transactions for each of a plurality of industry categories for a previous period of time; (*see page 2*)

Card News determining a first threshold ratio for a first of the industry categories based on said calculating; (*see page 1*)

Card News teaches determining a second threshold ratio, lower than the first threshold ratio, for a second of the industry categories based on said calculating, the second of the industry categories having a lower ratio of disputed credit transaction to total credit transactions in the previous period of time than the first of the industry categories. (*see page 1*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify PR Newswire with Card News. Motivation to modify exists because determining charges based on industry category helps to provide a more efficient determination of error rates.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdul Basit whose telephone number is 571 272-7246. The examiner can normally be reached on Monday - Friday, 8:30am to 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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